

**BOARD OF TAX APPEALS
STATE OF LOUISIANA**

**MICHAEL P. MARTIN, JR.
PETITIONER**

VERSUS

DOCKET NO. 9070

**DEPARTMENT OF REVENUE,
STATE OF LOUISIANA
RESPONDENT**

**JUDGMENT ON EXCEPTIONS
WITH ADDITIONAL WRITTEN REASONS**

A hearing on the Exceptions of No Right of Action, No Cause of Action and Prematurity filed by the Secretary, Department of Revenue, State of Louisiana (Secretary) was held before the Board on December 10, 2015 with Judge Tony Graphia (Ret.), Chairman; Vice-Chairman Cade R. Cole and Board Member Kernan A. Hand, Jr. present and no member absent. Participating in the hearing was: Jeffrey G. LaGarde, attorney for Michael P. Martin (Taxpayer), and Brian DeJean attorney for the Secretary. After the hearing, the matter was taken under advisement.

Taxpayer appeals from the Secretary's denial of an income tax refund in the amount of \$13,567.00 for 2013. The reason for the denial is that the Taxpayer claimed a credit of \$12,500 for the purchase of a solar energy system installed in Taxpayer's residence.

Taxpayer purchased and installed in his residence at 6814 Orleans Ave. in New Orleans a solar fan system in 2011 and claimed and received a \$600.00 credit from the state. As admitted and shown in Taxpayer's Exhibit 1 to his Pre-Hearing Memorandum Taxpayer purchased on August 6, 2013 a solar electric

system for the price of \$26,000.00 which was installed in Taxpayer's same residence as was the solar fan system.

It is the position of the Secretary that Taxpayer is not entitled to a credit on two solar electric systems in the same residence and for that reason denied the credit on the solar electric system purchased in August 2013.

Subsequent to filing his petition in this matter on August 29, 2014, Taxpayer amended his 2011 Louisiana tax return, omitted the former request for the \$600 solar electric system credit and re-paid \$600 plus interest and penalties to the Secretary.

The issue for the Board to decide is whether the Taxpayer is entitled to the requested \$12,500.00 credit.

The statute that provides for and gives the requirements to receive the credit is R.S. 47:6030, which as it existed on August 6, 2013, stated in pertinent part:

“Section 6030 Solar energy systems tax credit

A.(1) There shall be a credit against the income tax for the cost of purchase and installation of a solar electric system, a solar thermal system, or any combination of components thereof, hereinafter collectively referred to as “system”... at a single-family residence located in Louisiana...With respect to each residence, there shall be allowed only one tax credit for the purchase and installation of a system and no other tax credit is allowed for any other system installed at that residence. The provisions of this Section shall in no way be construed to or interpreted to allow more than one tax credit authorized under this Section, including any tax credit claimed before July 1, 2013, for any residence...”

In August 2013 when the “system” at issue was installed in Taxpayer's residence, no other credit could be allowed for the cost of purchase and installation of another system in the same residence.

The Board rules that the Taxpayer is not allowed to amend the 2011 tax return in which the first credit was requested and granted, repay the credit granted in the first return and avoid the provisions in the statute that provide: “only one tax

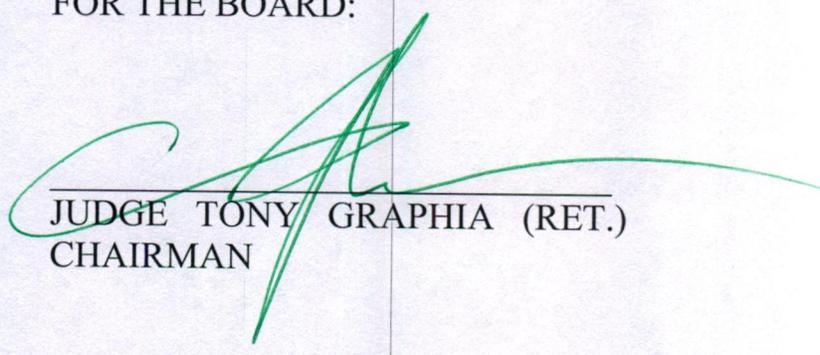
credit for the purchase and installation of a system and no other tax credit is allowed for any other system installed at that residence”.

For the reasons stated above:

IT IS ORDERED, ADJUDGED AND DECREED that the Secretary's exception of no cause of action is granted, and the Taxpayer's petition is dismissed.

Baton Rouge, Louisiana this 14 day of January,
2016.

FOR THE BOARD:


JUDGE TONY GRAPHIA (RET.)
CHAIRMAN